

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS
SEPTEMBER 1, 2020**

ITEM 3

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO ONE OR MORE CONTRACTS TO COMPLETE WORK REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR WATER RIGHTS-RELATED ACTIVITIES.

DISCUSSION

The proposed resolution would authorize the Executive Director to execute one or more contracts to hire environmental consultants to complete California Environmental Quality Act (CEQA)-related work for projects processed by the Division of Water Rights. The contract(s) would be for a total amount not to exceed \$1 million per year, for a duration not to exceed five years. The Water Rights Fund would be used to make direct payments to the consultants for CEQA-related work with costs recovered from the applicant and/or petitioner in order to reimburse the Water Rights Fund.

CEQA requires a public agency with discretionary authority to issue a water quality certification (certification), permit, or other approval to evaluate the environmental impacts of its discretionary action. Accordingly, the State Water Resources Control Board (State Water Board) must comply with CEQA when it takes discretionary actions related to its Division of Water Rights authorities, including acting on requests for certification or an application or permit for a water right.

As CEQA lead agency, the State Water Board ordinarily directs water rights or certification applicants and petitioners to enter into a Memorandum of Understanding (MOU) for completion of CEQA activities and development of associated environment documents. The applicant or petitioner is responsible for payment of the consultant's work pursuant to the MOU. Unnecessary delays related to CEQA work (e.g., delays in executing a MOU, lack of consultant payment, etc.) can delay processing of water rights or certification applications and petitions.

California Code of Regulations, title 14, section 15045, subdivision (a) provides legal authority for the CEQA lead agency to charge and collect reasonable fees for the cost of CEQA work. In October 2010, the State Water Board received \$1 million in cost recovery authority for CEQA activities. Funds are anticipated to be available for expenditure in the fiscal year (FY) 2021-2022 budget. The Board has previously executed similar contracts. [Resolution No. 2015-0028](#) authorized the Executive Director to execute a contract for an amount not to exceed \$1 million per year for up to five years: (1) to administer funds from the Water Rights Fund to hire environmental consultants for CEQA activities for actions processed by the Division of Water Rights where the State Water Board is the lead agency; (2) to make direct payment for such

work from the Water Rights Fund; and (3) to pursue cost recovery from the applicant and/or petitioner in order to reimburse the Water Rights Fund. The contract expires on June 30, 2021. The Division of Water Rights is seeking to enter into one or more new contracts that in total would not exceed \$1 million per year, for a duration not to exceed five years. Approval of the proposed resolution provides an important tool that allows the State Water Board to complete timely CEQA work without delay.

POLICY ISSUE

Should the State Water Board authorize the Executive Director to execute one or more contracts for a total amount not to exceed \$1 million per year from the Water Rights Fund, for a duration not to exceed five years, to: (1) hire environmental consultants to complete work required by CEQA for projects processed by the Division of Water Rights; (2) make direct payments for such work from the Water Rights Fund; and (3) pursue cost recovery from the applicant and/or petitioner in order to reimburse the Water Rights Fund.

FISCAL IMPACT

None. This contract will grant the Executive Director the contract authority to make and manage payments from the Water Rights Fund and pursue cost recovery in order to ensure the funds budgeted for this purpose remain in the Water Rights Fund.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

State Water Board staff recommend adoption of the proposed Resolution.